

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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US DISTRICT COURT E.D.N.Y.

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BROOKLYN OFFICE

In The Matter Of,

FREDERICK M. OBERLANDER, an
attorney admitted to practice before this
Court,

Respondent.

ORDER
16-MC-2637

This matter is before the Committee on Grievances for the United States District Court for the Eastern District of New York on the respondent's motion for stay of discipline pending his appeal. Familiarity with the facts is assumed. For the reasons below, the Committee grants the respondent's motion to stay.

A court must consider the following four factors before granting a stay pending appeal: "(1) whether the movant will suffer irreparable injury absent a stay, (2) whether a party will suffer substantial injury if a stay is issued, (3) whether the movant has demonstrated a substantial possibility, although less than a likelihood, of success on appeal, and (4) the public interests that may be affected." *Hirschfeld v. Bd. of Elections in City of New York*, 984 F.2d 35, 39 (2d Cir. 1993) (internal quotation marks and citations omitted). "The probability of success that must be demonstrated is inversely proportional to the amount of irreparable injury plaintiff will suffer absent the stay. Simply stated, more of one excuses less of the other." *Mohammed v. Reno*, 309 F.3d 95 (2d Cir. 2002).

Although the Committee finds that the respondent has not established a substantial possibility of success on appeal, the remaining factors weigh heavily in favor of granting the respondent's motion to stay. The respondent will suffer irreparable injury absent a stay; the term

of his suspension may very well expire before the Second Circuit decides his appeal. The Committee also finds that no party will suffer substantial injury if a stay is issued.

Accordingly, the respondent's motion for stay of discipline pending appeal is granted.

SO ORDERED.

s/Ann M. Donnelly

Hon. Ann M. Donnelly, U.S.D.J.
Chair of the Committee on Grievances
For the United States District Court
Eastern District of New York

Dated: Brooklyn, New York
November 7, 2018